

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14358 of Historic D.C. Property Group, Limited Partnership IV, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variance from the lot area and width occupancy requirements (Sub-section 3301.1 and 7615.2), the rear yard requirements (Sub-section 3304.1 and 7615.2) and from the prohibition against a principal building having no front yard (Sub-section 7615.3) to convert a two story accessory building (carriage house) to a dwelling using theoretical lot lines in an R-4 District at premises rear 642 East Capitol Street, N.E., (Square 868, Lot 800).

HEARING DATE: November 20, 1985

DECISION DATE: December 4, 1985

FINDINGS OF FACT:

1. The subject property is located on the north side of East Capitol Street between 6th and 7th Streets, and is known as premises 642 East Capitol Street N.E. It is zoned R-4.
2. The subject site is rectangular in shape and contains approximately 2,688 square feet of lot area.
3. The subject site is currently improved with a three story plus basement structure, a two-story brick carriage house, and a small storage shed.
4. The main structure and the carriage house were originally constructed in approximately 1890. The main structure was recently rehabilitated and converted from a six-unit apartment building to a four-unit apartment building. The carriage house has been vacant since September 1985. The most recent use of the carriage house was as a commercial silk screen, fabric design and dressmaking business which operated at the subject premises for approximately seven years without a certificate of occupancy.
5. The applicant proposes to subdivide the subject lot into two theoretical lots pursuant to Section 7615 of the Zoning Regulations which provides that two or more principal buildings or structures may be erected on a single subdivided lot.

6. Sub-section 7615.2 provides that the numbers of principal buildings permitted shall not be limited provided all requirements of the Zoning Regulations such as use, height, bulk and open spaces around each building are met. The applicant is unable to meet the lot area requirements, lot occupancy requirements, and rear yard requirements of the R-4 District and is therefore seeking variance relief with regard to those area requirements.

7. Sub-section 7615.3 provides that where a principal building has no street frontage as determined by the subdivision into theoretical building sites for each principal building, the front of such building shall be the side upon which the principal entrance is located and, further, that the open space in front of such entrance shall be provided equivalent to the required rear yard in the district in which such building is located, but a rear yard shall be required. The applicant's proposal does not provide front or rear yards. Variance relief is therefore required.

8. The proposed subdivision would result in the creation of two theoretical lots. The footprint of the carriage house, which measures approximately 896.07 square feet, would constitute one theoretical lot containing one principal building. The proposed subdivided lot would require 100% variance relief from the front and rear yard requirements, 50.2% variance relief from the lot area requirements, and 32.82% variance relief from the lot occupancy requirements for the R-4 District. The balance of Lot 800 would constitute a second theoretical lot containing the four-story row dwelling as its principal building.

9. The subject site is located within the Capital Hill Historic District. The applicant proposes to renovate the existing carriage house in accordance with U.S. Department of Interior Guidelines and Policies pursuant to the Tax Reform Act. The only exterior changes proposed are the restoration of the original architectural details.

10. The renovated carriage house will contain one one-bedroom residential unit with one parking space on the ground floor.

11. The carriage house fronts on a thirty-foot wide public alley in the interior of the subject square. Access to this thirty-foot wide segment of the alley system is via a fifteen foot wide public alley which runs north-south from East Capitol Street to "A" Street, N.E.

12. The carriage house faces an alley which contains thirteen other carriage houses, six of which are occupied as residential dwellings. Ten of the carriage houses on this alley contain approximately 920 square feet of floor area.

Four of the carriage houses, including the subject premises, contain approximately 1,380 square feet of floor area.

13. The applicant testified that the carriage house cannot be put to a reasonable use due to its large size and historic preservation limitations which restrict the owner's ability to demolish or alter the carriage house. The square footage of each floor of the carriage house, approximately 1890 square feet, is equal to the total square footage of nearby townhouses on Brown's Court.

14. The applicant testified that only one parking space can be provided in the subject structure due to the existing configuration of entrances, thus limiting the use of the rest of the structure to storage purposes. Each of the four units in the main structure are provided with approximately 100 square feet of storage space. The space available in the carriage house for storage is excessive and additional storage space is not required to serve the tenants of those units. Storage space in the subject structure cannot legally be rented to users other than tenants on the subject site.

15. The applicant testified that the cost of renovating the first floor of the carriage house for use as a garage would be approximately \$15,000. In addition, the applicant's expert historical witness testified that modifications to the exterior of the structure to provide an additional garage door necessary to provide more than one parking space was unlikely to be approved by the D.C. Historic Preservation Review Board, as that Board is concerned with the preservation of the exterior of buildings located in historic areas.

16. The applicant testified that leaving the carriage house vacant is undesirable because it would represent a waste of space, possibly attract undesirables, and would not add security to the alley such as would occur if a residential use were provided in the building.

17. The main structure previously contained six apartment units. The applicant has converted that structure into four two-bedroom apartment units. The carriage house is proposed to contain one residential unit. The total number of residential units on the property would, therefore, be reduced by one dwelling unit.

18. The existing and proposed residential units are being developed for rental purposes. The applicant proposes to require, by lease, that the tenants of the carriage house structure park in the interior garage. The applicant testified that he has developed a similar lease clause for tenants of a four-unit building at 642 Independence Avenue which has been occupied for approximately one year with no

complaints regarding tenants not parking in accordance with the lease agreement.

19. The applicant's expert historical witness testified that the subject structure is located on an alley system which has retained the exact configuration of the original 1790 survey for the creation of the federal city of Washington. The subject structure has a sloped roof and stepped corbeling over window and door openings. All such openings are proposed to be returned to their original configuration. The carriage house is larger than most, due to the above-average width of the subject site. The average lot width for properties on Capital Hill is approximately fifteen to seventeen feet.

20. The expert historical witness witness stated that any building which pre-dates 1919 is automatically considered by the Historic Preservation Review (HPRB) Board to be considered as "germane and relevant to the built environment of the historic district." The HPRB is primarily concerned with the physical fabric of the building rather than the use.

21. The Office of Planning, by memorandum dated November 13, 1985, recommended that the application be denied. The OP was of the opinion that the requested variances are excessive and would result in a density in excess of the normal for the R-4 District, thereby overcrowding the site and impacting the surrounding area adversely. The OP further noted that the Board previously denied a request for similar relief for the subject property by BZA Order No. 11978, dated March 3, 1976. The Board will address the recommendation of the OP later in this order.

22. Advisory Neighborhood Commission 6A, by resolution dated November 12, 1985 and by representative at the public hearing, recommended that the application be approved with the following conditions:

- a. The applicant would be required to write the leases on the four units in the main structure in a way that the tenants would be prohibited from parking in the alley as a condition of being in compliance with the lease. If neighbors complain of tenants of 642 East Capitol Street parking in the alley to the owner or his successors, and if he or his successors would not remedy the problem, then the Certificate of Occupancy could be revoked because the illegal parking not corrected by the owner would cause the property to violate a condition of the BZA Order approving the carriage house.
- b. The applicant would be required to write the

lease on the carriage house to require that the tenant park his or her automobile neither on the public street nor the alley, but in the parking space provided in the carriage house. If the tenant were to violate this requirement, then he or she would be in violation of the lease. If neighbors complain of the tenant parking in the alley, then the same administrative remedy would be available to the Zoning Administrator as in the paragraph above.

23. The ANC's support of the application was based on the following:

- a. The total number of units on the subject site would be reduced from six to five.
- b. The carriage house was formerly used for commercial purposes illegally.
- c. There are several structures on the alley used as residences.
- d. The problem of illegal parking in the alley was not attributable to the subject site as there are currently no tenants on the premises.
- e. There was no consensus among various neighbors about the most desirable use of the carriage house.
- f. The construction guidelines of the Historic District limit modifications to the structure.
- g. The applicant expressed a willingness to agree to conditions on approval to protect the neighborhood from the potential detrimental effects of creating a legal residence on the alley.

24. By letter dated November 17, 1985, the Stanton Park Neighborhood Association offered conditional support for the granting of the application based on the reduction of the total number of units on the site, the adequacy of the alley width to accommodate emergency vehicles, and expressions of support from several adjoining property owners. The SPNA noted that a number of neighbors were opposed to the application. The SPNA conditioned its support upon inclusion of a provision requiring the applicant to condition the lease of the carriage house to require the tenant to park in the garage within the carriage house.

25. Several nearby residents appeared at the public hearing in support of the application. Their support was based on the grounds that residential use of the carriage house would enhance the character of the alley, increase security and reduce illegal parking.

26. The record contains several letters of support from nearby property owners citing improved safety in the alley, a practical use for an otherwise vacant carriage house, and a gain in tax revenues to the city as benefits of the conversion.

27. The Capital Hill Restoration Society, by letter dated November 16, 1985, opposed the application based on the following:

- a. The applicant has not met the burden of proof in that it has not been shown that the strict application of the Zoning Regulation's would result in a hardship nor that exceptional practical difficulties prevent the use of the property in accordance with the Zoning Regulations.
- b. The property can be used as a two car garage for the tenants of 642 East Capitol Street without variance relief.
- c. The increased density could worsen congestion in the alley.
- d. Access to the thirty foot alley is via a substandard fifteen foot alley which could impair access by emergency vehicles.

28. The record contains several letters and petitions in opposition to the application and several neighboring residents testified at the public hearing in opposition based on the following:

- a. There is an existing problem with illegal parking in the alley which will be exacerbated by the proposed conversion.
- b. Approval of the subject application may serve as a precedent leading to conversion of other existing carriage houses on the alley to residences.
- c. The variances requested are substantial and result in the creation of a substandard lot.
- d. The appropriate use of the carriage house would be for parking and storage using the two existing garage doors.

- e. Although the applicant is reducing the total number of units, the number of bedrooms and, therefore, tenants, would be increased.
- f. There is no probative evidence which indicates that other carriage houses on the alley are legally being used as residences.
- g. The prior illegal commercial use was unobtrusive with regard to traffic generation.
- h. It has not been demonstrated that the subject property is exceptional or unique or that a practical difficulty would result if the application were denied.

29. In addressing the issues raised by the Office of Planning and the opposition, the Board finds as follows:

- a. The granting of the requested relief would not create a precedent. The Board considers the merits of an application on a case-by-case basis.
- b. The argument that existing parking problems will be exacerbated is not persuasive. The applicant will provide one parking space within the carriage house which meets the requirements of the Zoning Regulations. There is no evidence that the existing parking problems will be worsened by the conversion of the carriage house to a single residential unit which provides the required parking space.
- c. The use of other carriage houses on the alley, either legally or illegally, has no direct bearing on the subject application.
- d. The subject application differs from that in the prior order No. 11978, dated March 3, 1976 in that the overall density on the site will be reduced rather than increased, required parking will be provided and further because the site was not designated as being within an historic district until Fall 1976 and, therefore, did not apply at the time that Application No. 11978 was denied.

30. The Board finds the applicant's evidence to be persuasive. The subject site is large by Capitol Hill standards. The modification or demolition of structures on the site is limited by virtue of its location in the historic district. The existing carriage house is large and due to the existing configuration of entrances cannot reasonably be used solely for garage or storage purposes.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking variance relief. The granting of such relief requires a showing of a practical difficulty upon the owner arising out of some exceptional or extraordinary condition inherent in the property itself. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and Map.

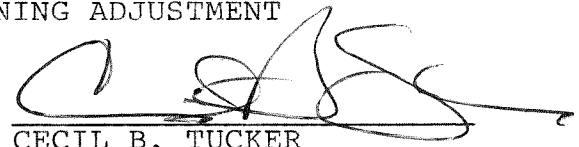
The Board concludes that the applicant has met this burden of proof. The site is large and was developed prior to the adoption of the current Zoning Regulations. The improvements on the site are subject to the guidelines and policies of the Historic Preservation Review Board. The Board is of the opinion that the applicant would suffer a practical difficulty by the strict application of the Zoning Regulations in that the applicant would be denied a reasonable and beneficial use of a significant historic improvement on the site.

The Board further concludes that the requested relief can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and will not tend to adversely affect the use of neighboring property. Accordingly it is hereby ORDERED that the application is GRANTED.

VOTE: 3-0 (Patricia N. Mathews, Charles R. Norris and Carrie L. Thornhill to grant; William F. McIntosh not voting; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 12 FEB 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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